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IN THE HIGH COURT OF JUDICATURE AT BILASPUR
CHHATTISGARH

W.P. NO. 1726 /2005

PETITIONER : Bhan Singh S/o. Late Bisan Singh,
Aged about 85 years, R/o. Village Kurasiya Colliery, Chirmiri, Distt. Koriya (C.G.)

VERSUS

RESPONDENTS :

1) State of Chhattisgarh,
Through: Collector, Koriya, Distt. Koriya (C.G.)

2) South Eastern Coalfield Limited
Through: Chief Manager, Kurasiya Colliery. Chirmiri, Distt. Koriya (C.G.)

3) South Eastern Coalfield Limited,
Through: its Chairman-cum-managing director, Seepat Road, Bilaspur (C.G.)

4) Collector, Baikunthpur, Koriya,
Distt. Koriya (C.G.)

5) S.D.O. (Revenue) Manedragarh,
Tah, Manendragarh, Distt. Koriya (C.G.)

6) Land Acquisition Officer, Koriya,
Distt. Koriya, Baikunthpur (C.G.)

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P.R. No. 17657/05
Presented by Shri Vandana
dated 19/11/05

WRIT PETITION UNDER ARTICLE 226 / 227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक W.P.1726/ सन् 2005

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

20-7-2005

Mr. Manoj Paranjpe, counsel for the petitioner.

Mr. N.K. Agrawal, Deputy Advocate General for the State/ respondents No.1 and 4 to 6.

Mr. Pankaj Agrawal, counsel for respondents No.2 & 3.

Heard.

The instant writ petition under Article 226/227 of the Constitution of India, has been filed by the petitioner questioning the legality of order dated 1-2-2005 passed by the Collector, Koriya, in Revenue Case No.35-B/ 121/2004-05 in the case of Bhan Singh vs. South Eastern Coalfields Limited and others.

The case of the petitioner, as set out in the writ petition, is that the petitioner's land bearing plot No.494 Rakba 265 sq. meters admeasuring 2,800 sq. ft. situated at Tata Bazaar, Kurasiya Colliery, Village: Chirmiri, Tehsil: Manendragarh, District: Koriya, was acquired by the SECL for mining activities in the year 1983, and the petitioner was served with a notice and directed to remove the construction on the land in question. The Collector, Surguja granted surface rights in the land in dispute and the land as well as the superstructure standing on the land was acquired by respondent No.2. Thereafter, proceedings under Section 247 (2) of the Chhattisgarh Land Revenue Code, 1959, were initiated and compensation of the land and superstructure was fixed to the tune of Rs.3,45,316/-, and

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आदेश पत्रक

मामला क्रमांक W.P.1726/ सन् 2005

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

respondent No.2 has paid 40% compensation. Subsequently, on 6-1-2001 a cheque of Rs.1,65,000/- was issued by respondent No.2 in favour of the petitioner, and the petitioner has accepted the same under protest. The petitioner being dissatisfied with the compensation amount moved a reference under Section 18 of the Land Acquisition Act, 1894, to the District Judge within 30 days and the learned Additional District Judge, Manendragarh directed that the reference in question should be preferred before the Collector. Accordingly, the petitioner moved an application before the Sub Divisional Officer on 4-1-2003 for making reference to the Collector. However, the Collector rejected the reference on the ground that the reference in question is time barred.

Learned counsel for the petitioner submitted that the order of the Collector is wholly arbitrary and without jurisdiction, as the question of limitation was to be decided by the District Judge, not by the Collector. In this connection, learned counsel relied upon the decisions of the Madhya Pradesh High Court reported in **1995 M.P.L.J. 100 (Shriyana Kumar Jain and others vs. State of Madhya Pradesh and another)** and **1999 (II) MPWN 96 (Jameel Ahmad vs. State of M.P.).**

As per the M.P. High Court decision in the case of **Shriyana (supra)** it has been held that "question as to whether reference is barred by limitation or not is matter to be decided by District Judge". Similarly in the matter of **Jameel (supra)** it has been held that that the District Judge

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आदेश पत्रक

मामला क्रमांक W.P.1726/ **सन्** **2005**

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

is required to decide the question of limitation after adducing evidence of the parties and giving due opportunity of hearing.

In view of the above decisions, the petitioner's writ petition deserves to be allowed.

In the result, the writ petition is allowed and the Collector, Koriya is directed to make reference to the District Judge, Ambikapur, for decision on its own merits, in accordance with law. No orders as to costs.

In view of this order, M.(W.)P.No.1349/2005 and I.A.No.3336/2005 stand disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

Soma

(पीछे देखिये)